

**MINUTES**

**MONTANA SENATE  
56th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON TAXATION**

**SUBCOMMITTEE ON SALES TAX**

**Call to Order:** By **CHAIRMAN BOB DEPRATU**, on March 16, 1999 at  
10:05 A.M., in Room 413/415 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Bob DePratu, Chairman (R)  
Sen. Bill Glaser (R)  
Sen. Barry "Spook" Stang (D)

**Members Excused:** None

**Members Absent:** None

**Others Present:** Sen. Alvin Ellis Jr.  
Sen. Dorothy Eck  
Gordon Morris, Montana Association of Counties  
Judy Paynter, Department of Revenue  
Jeff Miller, Department of Revenue  
Jerry Leonard, Department of Revenue

**Staff Present:** Sandy Barnes, Committee Secretary  
Lee Heiman, Legislative Branch

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Bills Discussed: Three Sales Tax Packages

**DISCUSSION ON SB 135, 143, 157 (SPRAGUE PACKAGE),**  
**SB 516, 517, 518, 519, 520 AND 523 (GOVERNOR'S PACKAGE)**  
**AND SB 525, 526, 527 AND 528 (DEVLIN PACKAGE)**

**SEN. DEPRATU** said the committee was being asked to make some  
recommendations as to what should be included in the total final  
package. **Mr. Heiman** provided information sheets for Senator

Sprague's Package, **EXHIBIT(tas59b01)**, for Senator Devlin's Package, **EXHIBIT(tas59b02)**, and Senator Cole's and Senator Ellis's Package, or the Governor's proposal, **EXHIBIT(tas59b03)**, for use in comparing the three packages. **SEN. DEPRATU** said in his estimation, the most important things to consider in the subcommittee's recommendations is how broad we want the tax to be, how much revenue we want to produce, how much tax relief we want to give, and how that tax relief is to be applied. **Mr. Morris** also provided additional copies of his comparison that he provided at the hearing on the Governor's package and **SEN. DEVLIN'S** package, **EXHIBIT(tas59b04)**.

**SEN. GLASER** said he had some policy issue questions. He said that Senator Sprague's bill repeals the retirement levy and the other two packages do not. Assuming that state support was going to be provided for a good portion of the retirement levy, he wondered if it was reasonable to do all of it or just at the 80% level. **SEN. ELLIS** said he would have no objection to doing it at the 80% level, and he felt that that could be justified. **SEN. STANG** said that the Interim Property Tax Committee had said in their meetings around the state that that was going to be repealed, and he said that he would probably continue with that concept. He said it would provide a little more homeowner relief; however, he also said that in the future, if the state is paying 100% of that and local districts are making the decisions on teachers, the state may want to get into that decision making, and he said that he had a problem with that.

**SEN. GLASER** said the other thing that he was considering was on transportation, which is a similar situation. If the state provides all of the transportation, there is no incentive for the local districts to be prudent. **SEN. STANG** said that he thought the committee had agreed that some of the local portion should be left there. **Mr. Heiman** said that there had been discussion on this matter, but the committee had taken no action. **SEN. DEPRATU** said, though, that the intent of the committee seemed to be leaving it for local control.

**SEN. GLASER** also said the committee should revisit light vehicles in lieu of the fact that **SB 260** is on the books, and there have been other ideas presented. He said the \$50 amount in **SEN. DEVLIN'S** package in addition to **SB 260** is another \$25 million. After the fees, the revenue is less than \$40 million. **Ms. Paynter** said that the Department is also going to provide information on that issue.

**SEN. DEPRATU** said that the committee should perhaps discuss the philosophy of ad valorem and the flat fee. He said he has always

liked the idea of a flat fee, but with all of the things that would be done should a sales tax pass where the deductibility is lost on the federal income taxes, he wondered if an ad valorem would be better. **SEN. STANG** said he favored an ad valorem because it is more progressive. He said that since the vehicle tax is going through, he felt this should be taken out of the sales tax bill and a way be found to give that money back to homeowners in some other way.

**SEN. ELLIS** said that he felt that auto taxes are the most regressive taxes we have because everyone has automobiles, so it seems that automobile taxes should be eliminated as far as a substantial income if we are doing a sales tax. This is something that benefits the most people because everybody pays it. **SEN. STANG** said he would support using a portion of the sales tax to further reduce the percentage of the vehicle taxes, but he did not feel that it should be eliminated. However, whatever is not spent over and above that should go somewhere else, and he would rather do that on the ad valorem than on the flat tax.

**SEN. DEPRATU** said he was leaning toward ad valorem also, but he would like an across-the-board income tax deduction for Montana income taxpayers, and it has to be a fair and equitable tax for all taxpayers. **SEN. STANG** said he might agree with that concept, although he is not enamored with the Governor's proposal to reduce income taxes, or anything that eliminates federal deductibility. He said he would rather juggle the schedules. He would be willing to consider a plan that redistributes the income tax as long as it continues to be progressive and along the same lines that it works presently. **SEN. DEPRATU** said he agreed that the percentages should be changed all the way down, so that everybody is treated equally.

**SEN. GLASER** said in regard to the automobile tax, that he had a note on the possibility of a one-time buyout after so many years, and asked about local option. He said if we leave local option the way it is, the tendency is to continue toward the ad valorem type tax because there are not two tax systems, one for local and one for state. **SEN. DEPRATU** asked if there was anything in any of the proposals dealing with the courts. **SEN. ELLIS** said that the counties are required to support the courts, but that they have no discretion over the courts, and **Mr. Heiman** said that any one of the bills would allow state assumption.

**SEN. GLASER** said that if the committee recommends staying with the ad valorem, and **SEN. STANG** was suggesting either .75% or 1%, **SEN. GLASER** said that when you go from 1.5% to 1%, that adds up to \$20 million with **SEN. DEVLIN'S** cap. **SEN. STANG** said he

thought 1% was low enough. **SEN. STANG** said that if vehicle taxes are lowered further and extra money is saved and that is put into some other form of tax reform, or lowered, it needs to be funneled back into the local jurisdictions in the formula for the taxes they lose, and there really is not any money left over to put into income tax or property tax reform, and **Mr. Morris** agreed.

**SEN. DEPRATU** asked the committee whether the local option tax on vehicles should stay or not, and **SEN. STANG** said that if that is not going to be included, it needs to be replaced so the counties can fund their district courts. The general feeling was that the state should fund the district courts somehow through the sales tax process. **Mr. Morris** told the committee that judges are state funded, but the staff, et cetera, are covered locally. **Mr. Heiman** said that the Supreme Court has a breakdown of costs and he said he would get that for the committee.

**SEN. DEPRATU** summarized by saying the committee was leaning toward removing the local option car tax and looking to the sales tax for funding of the counties' portion of district courts. He also thought the committee would recommend a 1% ad valorem tax.

Regarding the buyout on vehicles, **SEN. GLASER** said he thought that would add to the package's marketability. **SEN. DEPRATU** said he thought that should go out farther than ten years. **SEN. STANG** said he did not like that concept, but it was decided that it would be discussed further at another time.

The Department of Revenue provided a yellow and blue handout which set out the impacts of the three packages, **EXHIBIT (tas59b05)**, and a handout entitled "Consumption Tax Proposal Comparisons," **EXHIBIT (tas59b06)**. They also provided a memo from Mary Bryson on the comparison of the new flat tax with other vehicle bills, **EXHIBIT (tas59b07)**.

#### **Discussion on the Department's Exhibit 5:**

**SEN. DEPRATU** said that services is the first area that needs to be examined. He said he feels that if there is going to be a sales tax, it should be as broad as possible, including all of the services. He said his feeling is that the only services not taxed would be medical services.

**SEN. STANG** said he did not like the method of taxation in the Governor's proposal. He said he is not a fan of the value-added tax because he feels it is anti small business. He said he does

agree that everything but food and medicine should be taxed. He also agrees that medical services should not be taxed.

The committee agreed that unprepared food should be exempt, but prepared food would be taxed. A discussion ensued about the taxation of candy and pop, and it was generally agreed that food should follow the guidelines set forth for food stamps.

Prescribed medicines are exempt; medical services are exempt; wages are exempt; agricultural products, livestock feeding, exempt.

The committee discussed what was included in amusement services, and the Department provided the SIC category that gives that definition. It was decided that gambling should not be taxed but amusement services would be.

Insurance premiums should be exempt; dividends and interest are exempt; fuel is exempt; casual sales are exempt, but casual automobile sales are taxed when the vehicle is licensed; oil and gas as refers to production, exempt; personal effects brought into the state, exempt.

**SEN. STANG** said that he still would like to see newspapers taxed, and he might do some more checking on that issue, but that it would probably remain exempt.

"All other services" was defined by the Department of Revenue as being CPAs, attorneys, architects, financial services, construction, utilities, communication services, telephone. **SEN. STANG** said that utilities and telephone are covered elsewhere. The Department pointed out that there was an error on their handout, that "All other services" should be "exempt" under **SEN. DEVLIN'S** bill, and **SEN. SPRAGUE'S** exempts daycare, ag services. Other services are taxed. **SEN. STANG** said he favored **SEN. SPRAGUE'S** bill in that area. **SEN. DEPRATU** and **SEN. GLASER** agreed.

**Mr. Miller of the Department of Revenue** said personal services included laundry and garment cleaning services, portrait photographic studios, beauty shops, barber shops, shoe repair, funeral services and other personal services, and the committee agreed those would be taxed.

Rental cars, bus charters, lodging, equipment rental, all taxed. **SEN. ELLIS** asked if motor vehicle repair is exempt under **SEN. DEVLIN'S** bill, and **Mr. Leonard** said it is taxed, as well as motor vehicle repair.

Ag services, chemical reagents, mining services, sale of resale, sale of services for resale, sales to miner or manufacturer, sales for leasing, lease or subsequent lease, residential rentals, all exempt. Interstate exports, exempt; intrastate transporting, taxed; sale of services to out of state, exempt.

Use of property for leasing, exempt. **SEN. STANG** pointed out that that property is exempt but the lease is taxed. A discussion ensued concerning how collection of the sales tax should be handled, and the Department provided a comparison of neighboring states, **EXHIBIT (tas59b08)**.

**Mr. Peterson** asked whether his understanding that the committee preferred the Sprague proposal for taxing services was correct, and **SEN. DEPRATU** said it was. **Mr. Peterson** said that that was the big difference between the Sprague proposal and the Devlin proposal. **SEN. DEPRATU** said that that is where the additional income is derived that is then turned back into tax relief in other areas.

**SEN. DEPRATU** asked the committee in which form they wanted to apply the tax on vehicle leases, and **SEN. STANG** said he thought they had agreed that the way the Sprague proposal handled it was appropriate. He said he would prefer collecting on a monthly basis rather than for the whole term of the lease. The committee looked at the methods of the various states and decided that they would follow Idaho's plan.

**Mr. Miller** clarified the intrastate transporting as referring to people, not freight. It is a bus ticket from Billings to Missoula, not from Billings to Seattle, intrastate transportation of people. Under the Devlin proposal, transportation of goods would not be taxed, but under the Sprague proposal, it would be, when shipped within the state of Montana.

Credit for out of state sales taxes, yes. **Mr. Miller** said this is where people make a purchase outside of Montana and bring it into the state. Instead of paying a full use tax at 4%, they would be given credit for tax paid in the other state. He said that use taxes are not very successfully collected, but they need to be in place to present that balance and demonstrate that there is really no advantage to purchasing out of state. It is also a very common audit adjustment of the sales tax on a business.

Sellers permit/registration, **Mr. Miller** explained is the notion that we need to register who it is that is going to be collecting the sales tax on behalf of the state. The tax is on the consumer, but businesses will be registered to collect on the state's behalf.

NTTC certificates, yes; inputs, okay; incidence of tax, consumer; threshold, none.

**SEN. DEPRATU** said that the committee had earlier discussed in regard to the Sprague proposal that \$50 was inadequate for businesses for collecting the tax. A discussion followed on whether there was breakage written into the bill, and the amount of the cap and whether that was enough. It was decided that it would be set at 1.5% or \$200, whichever is less, and the Department will work out the language. **SEN. DEPRATU** said the committee also recommended the tax due date as the last day of the month rather than the 15th.

Lower income relief provided, yes; destination based.

Regarding local option, **SEN. DEPRATU** asked how this would affect those who have resort taxes now, and **Mr. Morris** said this would be a piggyback general sales tax as opposed to the resort tax.

**SEN. DEPRATU** asked if local option and resort tax are two different taxes, and **Mr. Morris** said that was correct. **SEN. GLASER** asked if this applies with the Constitution as it is written, and **Mr. Heiman** said that the Constitution says a "general sales tax," and the resort tax is not a general sales tax.

**Mr. Miller** explained that the use tax refers to the compensating use tax for the purpose of bringing the out-of-state purchase to the same level of taxation as the in-state purchase, and that was left at 4%.

There was a discussion on the public vote date. **SEN. GLASER** said he recommended going with the Governor's dates. **Mr. Morris** agreed with November 1999 for the public vote, and **SEN. DEPRATU** said he had heard testimony on the June 1 applicability date.

**Ms. Paynter** said that property tax relief goes off January 1, and although the majority of that relief falls into the next fiscal year, there is some property tax relief that falls in that spring, and when that first month is accrued back, it provides the money for the property tax relief you get in that first six months. She said if that isn't done, it ends up short. The committee decided a public vote date of November 2000 with an application date of June 1, 2001 might be best, which would allow enough time to sell the proposal.

**SEN. STANG** asked again what class three and class four property are, and **Ms. Paynter** said that class three is livestock and class four is real residential and real commercial. **SEN. STANG** said he liked the Devlin proposal in this respect because he did not feel that class eight needed to be totally eliminated. He said 3% was

a livable rate. **SEN. DEPRATU** said he felt it should be eliminated. **Mr. Morris** said class eight is repealed or exempt, and class six is exempt. **SEN. STANG** said the committee would probably recommend some amendments in this regard, but if those don't pass, the Sprague proposal seemed the most complete proposal. **Mr. Morris** reminded the committee that in the Sprague proposal, business equipment is exempted, but at the same time, most of that tax is being eliminated by virtue of the elimination of the levies to begin with. That being done, the business equipment reduction is significantly reduced by virtue of how much tax it is going to generate. The homestead exemption then provides a mechanism for compensating residential property relative to business equipment reductions enjoyed by the commercial sector. The real property taxes on commercial will be substantially higher than real property taxes on residential property.

**SEN. DEPRATU** summarized, then, that the committee was pretty much in line with the Sprague proposal, with the understanding that **SEN. STANG** is wanting class eight to be at 3%.

Intangibles will hopefully be repealed. **Ms. Paynter** explained that in the Sprague proposal all personal property was repealed, not just class eight, and when all personal property is repealed, that includes intangibles. Under the Devlin proposal, only class eight was repealed, and therefore does not repeal the intangibles.

The committee agreed to 1% ad valorem on motor vehicles with **SEN. DEVLIN'S** caps.

**SEN. STANG** said there are some bills out on the telephone license tax that stand on their own. He then asked about the contractor gross receipts tax, and **Mr. Peterson** said that the gross receipts tax is 1% and they can offset that against taxes paid. He said when you eliminate business equipment tax, they cannot offset anything, so rather than leaving it at 1%, it was reduced to .5%. He went on to say that under the Sprague proposal, if you eliminate class eight and leave it at 1%, they pay 4% sales tax plus an additional 1% gross receipts tax. **Mr. Miller** explained that that 1% is a withholding amount and is creditable against their tax liabilities for either corporate license or property or even individual income tax. **SEN. STANG** asked if the Department could tell the committee how many of those people, if this tax is eliminated, would lose a portion of that credit. He said that perhaps the committee wouldn't want to reduce it by half, but reduce it some so that they stand a chance of getting it back with the taxes that they pay.



Incentives and credits, no change.

**Mr. Peterson** said that he kept hearing about marketability, and he said that if marketability is really important, he suggested that the committee rethink the major difference between the Sprague proposal and the Devlin proposal on services. If all services are taxed, it will make the proposal harder to sell.

**SEN. DEPRATU** told him that the committee had discussed this matter at length when going through the Sprague proposal, and it was the feeling of the committee that this should be broad based. He said he understood **Mr. Peterson's** point of view, but it was the feeling of the committee that services should be taxed and those additional tax dollars should go to tax relief in other areas.

**SEN. GLASER** distributed a letter from Don Spivey regarding some suggestions on tax selection criteria, **EXHIBIT (tas59b09)**.

Tax rate, Reappraisal, **SB 195, I-105**, Sprague proposal. There was some discussion about getting rid of the inheritance tax, and both the inheritance tax and the incentives will be discussed further.

**SEN. STANG** said that the one reason he did not like the Sprague proposal is that if the legislature can do **SB 200** and **SB 260** without a sales tax, then any sales tax should totally go to property tax relief for homeowner and residential property and forget the rest of it. He said he felt it should go back to individual taxpayers, whether they be homeowners or income taxpayers, and if those other things can be done without a sales tax, then that is the trade off. He said the other thing he would like to see is the income tax be totally eliminated if there is a sales tax. **SEN. DEPRATU** said his problem with that is that he feels there needs to be a three-legged tax structure.

**SEN. GLASER** said he did not have a problem paying tax on his profits, but he resented having to dig into his reserves to pay property tax. **SEN. DEPRATU** did say he felt the income tax rate is too high.

The subcommittee will meet at 9:00 a.m. on Wednesday, March 17, 1999.

**ADJOURNMENT**

Adjournment: 12:10 A.M.

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SEN. BOB DEPRATU, Chairman

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SANDY BARNES, Secretary

GD/SB

**EXHIBIT (tas59bad)**